

**CITY COUNCIL MEETING
CITY OF WATERTOWN
April 4, 2011
7:00 P.M.**

MAYOR JEFFREY E. GRAHAM PRESIDING

PRESENT: **COUNCIL MEMBER ROXANNE M. BURNS
COUNCIL MEMBER JOSEPH M. BUTLER JR.
COUNCIL MEMBER TERESA R. MACALUSO
COUNCIL MEMBER JEFFREY M. SMITH
MAYOR GRAHAM**

ALSO PRESENT: **MARY M. CORRIVEAU, CITY MANAGER
CITY ATTORNEY ROBERT J. SLYE**

City Staff Present: Ken Mix, Kurt Hauk, Elliot Nelson, Jim Mills, Chief Herman, Chief Goss, Shawn McWayne

The City Manager presented the following reports to Council:

- 1 - Approving Contract for Use of Buildings and Grounds, Disabled Persons Action Organization
- 2 - Approving Multi Jurisdictional Natural Hazard Mitigation Plan
- 3 - Approving Public Benefits Services Agreement Between the City of Watertown and the Disabled Persons Action Organization
- 4 - Readopting Fiscal Year 2010-11 Tourism Fund Budget
- 5 - Authorizing the Sale of Real Property Known as
Tax Parcel No. 13-23-102.1
- 6 - Approving Site Plan for the Construction of a 104' Monopole Communications Tower and Related Appurtenances Located at 491 Eastern Boulevard,
Parcel No. 5-26-103.007
- 7 - 7:30 p.m. Special Use Permit Request Submitted by Ryan G. Churchill of GYMO P.C. on behalf of Norstar Development USA L.P. to Allow the Construction of 200 Multifamily Residential Units Located at 918 Mill Street, Parcel Nos. 3-14-101.100, 3-14-101.200, 3-14-105.100 and 3-14-105.200
- 8 - 7:30 p.m. Special Use Permit Request Submitted by Michael E. Cusack, Esq. on Behalf of St. Lawrence Seaway Cellular Partnership d/b/a Verizon Wireless to Allow the Construction of a 104' Monopole Communications Tower and Related Appurtenances at the Rear of 491 Eastern Boulevard, Parcel Number 5-26-103.007
- 9 - Tabled – Local Law No. 1 Amending City Code of the City of Watertown, §205, Noise
- 10 - Boards and Commissions
- 11 - Autism Awareness Month
- 12 - Bond Refunding
- 13 - Budget Allocation Request - Volunteer Transportation Center, Inc.
- 14 - Executive Session Employment History of Particular Individuals and Collective Bargaining

COMPLETE REPORTS ON FILE IN THE OFFICE OF THE CITY CLERK

Meeting opened with a moment of silence.

Pledge of Allegiance was given.

The reading of the minutes of the regular meeting of March 21, 2011, was dispensed and accepted as written by motion of Council Member Smith, seconded by Council Member Butler and carried with all voting in favor thereof.

COMMUNICATIONS

Petition for assessment review was received from Verizon, New York.

ABOVE PLACED ON FILE

Petition containing approximately 20 signatures was received urging Council to do something about the noise from the Audio Store at the corner of Casey and Arsenal Streets.

ABOVE PLACED ON FILE

Claim against the City was received from Kimberly Kowal for damage to her vehicle when she struck a pothole on Mechanic Street.

ABOVE REFERRED TO THE BOARD OF AUDIT

Mayor Graham interrupted the regular course of business to proclaim April 2011 as **Autism Awareness Month** in the City of Watertown.

Mayor Graham proclaimed April 5, 2011 as **Court Appointed Special Advocates Day (CASA)** in the City of Watertown.

PRIVILEGE OF THE FLOOR

Sam Purington, Executive Director of the Volunteer Transportation Center, addressed the chair and outlined the history of the agency. He advised that the volunteer drivers drove 2 million miles this past year, with 26,000 miles being used to take city residents to appointments. These appointments are during the times that paratransit is not available as well as to locations where paratransit does not go. He gave the example of a recent trip to a doctor in New Jersey. He also advised that renal patients quite often use their services during paratransit's off hours. Mr. Purington advised that the Center pays the volunteer drivers .44¢ a mile. He asked that Council consider the Center's request for \$1,600 to help defray these costs.

Trudy Ryan, Casey Street, addressed the chair concerning the noise from Audio Arsenal on the corner of Casey and Arsenal Streets. She stated that something needs to be done as it is unhealthy for the neighbors to be near it. She explained that studies have been done that this type of noise causes depression and high blood pressure. She stated that infrasound was used by Hitler to cause anger in people, to stir up the crowds, and that is what this is. Ms. Ryan read from

an anonymous letter that was sent to her concerning the problems with the noise and the fact that the neighbors should make the City enforce the laws that are on the books. The letter writer also advised that the values of their properties would decrease because of this.

Council Member Macaluso asked if Ms. Ryan had spoken with the owners of the business.

Ms. Ryan responded that she had and then they blared the music louder. In fact, they had music playing on Sunday, even though they were closed.

Jean Ryan, Casey Street, addressed the chair remarking that she can't comprehend that she has had to fight for her property after living there for 61 years. She thanked Council Member Butler for all he has done and asked that someone look into this situation now.

PRESENTATION

Mayor Graham interrupted the regular course of business to allow for the Geothermal Review presentation by Sack and Associates, Paul C. Sack, P.E. LEED AP and Elizabeth Sack, EIT.

Mrs. Corriveau explained that this is a report on "will it work", not on which way to go. She explained that the critical issues are City Hall and the library.

Mr. Sack presented a power point review explaining what geothermal systems are and how they work as well as the different types that are available. He explained that the systems lower operating and maintenance costs and are environmentally responsible. Mr. Sack also advised that the systems are easy to service as they are a simple set of circulation pumps and the exposed outdoor equipment is reduced. He explained that there are open and closed systems which consist of conventional straight systems and vertical systems with closed loops. He stated that the closed system would be what he would recommend with wells being placed under the parking lot.

Council Member Butler asked about the number of wells being proposed for City Hall.

Mr. Sack advised that 44 were being recommended.

Regarding the library, Mr. Sack presented the library's equipment summary.

Mrs. Corriveau explained that the library has heat pumps which are replaced on a regular basis. Eleven are about to be installed and six have already been done.

After Mr. Sack presented the utility review including lighting loads and miscellaneous electric loads, Mayor Graham asked if the fact that the agreement with National Grid expires in 2031 -32 was taken into consideration when calculating savings and costs.

Mr. Sack stated that it was built into the life cycle costs. He then reviewed the various options that were available for both facilities.

Mayor Graham commented that the need for new windows in City Hall always comes up and asked what else we would be looking at.

Mr. Sack responded that the facility would need to be brought up to energy codes. He suggested that the inside walls could be insulated and new dry wall put up.

Council Member Burns asked if he was talking about removing the marble from the outside.

Mr. Sack responded that his thought would be to do the work on the inside and leave the marble alone.

Mrs. Corriveau commented that the walls are cold in the winter and then the heat comes through the walls in the summer as there is little to no insulation in the building.

Council Member Butler commented that the study recommends geothermal, yet the envelope upgrade option is almost equal.

Mr. Sack said the savings would be in maintenance costs.

Mrs. Corriveau advised that the first thing that should be done is to replace the windows and then upgrade the building's envelope so that the building is tight. It doesn't need to be done outside the building.

Mr. Sack advised that if this was done, the City could purchase a smaller chiller. He also stated that geothermal makes sense in both buildings.

Mayor Graham commented that when talking 60-70 years out, the number of variables make the study's numbers meaningless. He also commented that systems are constantly changing and new things are being developed all the time.

Mr. Sack advised that there would be value to what is buried as it could be connected to something else in the future.

Council Member Macaluso asked what happens if the underground pipes fail.

Mr. Sack explained that leak detections can be monitored from inside the building and perhaps, one well would have to be capped and not used. He stated that the closed system works best. He also explained that once in the ground, the pipes can't be serviced and they don't need to be.

Following this presentation, City Engineer Kurt Hauk also presented a power point report on these systems and explained that while the City probably wouldn't be eligible for NYSDERDA incentives for either facility because of the power purchased agreement, applications will still be submitted to them to see if we do qualify.

Mr. Hauk advised that the cost for a full geothermal replacement at the library would be \$1.2 million and questioned if the City has that amount to invest. He suggested that City Hall could

have a building upgrade and the City would see comparable savings. He stated that if Council agreed to move ahead, the agreement with Sack could be amended.

It was agreed that the geothermal discussion would continue at the next work session.

PUBLIC HEARINGS

AT 7:30 PM. MAYOR GRAHAM ASKED THE CITY CLERK TO READ THE NOTICE OF PUBLIC HEARING CONCERNING THE REQUEST FOR A SPECIAL USE PERMIT TO ALLOW CONSTRUCTION OF 200 MULTIFAMILY RESIDENTIAL UNITS LOCATED AT 918 MILL STREET, PARCEL NOS. 3-14-101.100, 3-14-101.200, 3-14-105.100 AND 3-14-105.200.

MAYOR GRAHAM DECLARED THE PUBLIC HEARING OPENED.

Linda Goodman, Norstar Development, USA LP, addressed the chair asking Council for support of the project.

MAYOR GRAHAM DECLARED THE PUBLIC HEARING CLOSED AT 7:32 P.M.

AT 7:30 PM. MAYOR GRAHAM ASKED THE CITY CLERK TO READ THE NOTICE OF PUBLIC HEARING CONCERNING THE REQUEST FOR A SPECIAL USE PERMIT TO ALLOW THE CONSTRUCTION OF A 104' MONOPOLE COMMUNICATIONS TOWER AND RELATED APPURTENANCES LOCATED AT 491 EASTERN BOULEVARD, PARCEL NO. 5-26-103.007.

MAYOR GRAHAM DECLARED THE PUBLIC HEARING OPEN.

Michael Cusack, attorney for Verizon, addressed the chair explaining that the Verizon network is being upgraded to 3G with the future plans being to upgrade to 4G later. He advised that it was time to bring 911 into the digital age and cited examples of emergency services that this upgrade would allow. He advised that the network in Watertown had to have increased capacity. To that end, the first site where a tower was installed was at the Northpole Fire Department. This will be the second. The SMC roof is being considered for the third site. Attorney Cusack advised that Verizon will do landscaping and planting of trees. This is an unmanned facility with an entrance road, which is not a thru-street meant for public traffic.

MAYOR GRAHAM DECLARED THE PUBLIC HEARING CLOSED AT 7:40 P.M.

RESOLUTIONS

INTRODUCED BY COUNCIL MEMBER TERESA R. MACALUSO

WHEREAS the City of Watertown desires to run a Summer Recreation and Playground Program within the City of Watertown, and

WHEREAS Disabled Persons Action Organization is willing to authorize the City to use its facilities for said purpose, and

WHEREAS there is no cost associated with the Agreement between the City of Watertown and Disabled Persons Action Organization, and

WHEREAS the City of Watertown deems the providing of a Summer Recreation Program to be a benefit to the citizens of the City,

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Watertown hereby approves the Agreement between the City of Watertown and the Disabled Persons Action Organization, a copy of which is attached and made a part of this resolution, and

BE IT FURTHER RESOLVED that the City of Watertown hereby agrees to defend and indemnify Disabled Persons Action Organization from and against any and all claims for personal injury or property damage arising from the negligence of any of its officers or employees occurring in connection with the use of DPAO facilities in accordance with this Agreement, and

BE IT FURTHER RESOLVED that Mayor Jeffrey E. Graham is hereby authorized and directed to execute the contract on behalf of the City of Watertown.

SECONDED BY COUNCIL MEMBER JEFFREY M. SMITH AND CARRIED WITH ALL VOTING YEA

INTRODUCED BY COUNCIL MEMBER JOSEPH M. BUTLER, JR.

WHEREAS Jefferson County, with the assistance of URS Corporation, and towns, villages and the City Watertown gathered information and prepared a Multi-Jurisdictional Hazard Mitigation Plan, and

WHEREAS the Plan has been prepared in accordance with the Disaster Mitigation Act of 2000, and

WHEREAS during the plan development process, Jefferson County through the Core Planning Group developed a web site, held open meetings and encouraged the public to comment on the plan, and

WHEREAS the City of Watertown is a unit of local government that has, through the process detailed above, afforded the citizens an opportunity to comment and provide input in the Plan and the actions in the Plan, and

WHEREAS the City of Watertown has reviewed the Plan and affirms that the Plan will be updated no less than every five years,

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Watertown hereby adopts the Jefferson County, Multi-Jurisdictional Hazard Mitigation Plan as the City's Natural Hazard Mitigation Plan.

SECONDED BY COUNCIL MEMBER TERESA R. MACALUSO AND CARRIED WITH ALL VOTING YEA

Prior to the vote on the foregoing resolution, Council Member Smith expressed his concerns about jumping into this and then finding the City on the hook for something.

Chief Herman explained the plan, stating that it is a 500 page compilation of all towns and villages in the county as well as the City of Watertown and Jefferson County. By addressing certain projects, it could be of benefit to the municipalities for low interest loans in the future. He advised that this has to be updated on a regular basis.

Council Member Smith asked if the City would be obligated to mitigate hazardous problems for adjoining towns.

Chief Herman stated no.

Mrs. Corriveau advised that if the County didn't have the plan and we had an emergency here, we wouldn't get any FEMA assistance. The plan describes the various types of hazards that we might experience.

Council Member Smith asked if the plan obligated the City to stop river erosions.

He was told it did not.

Council Member Butler asked if this plan addresses staffing issues for police and fire.

Chief Herman stated that it did not.

INTRODUCED BY COUNCIL MEMBER ROXANNE M. BURNS

WHEREAS the City Council has received a request for funding to support the promotion of the Disabled Persons Action Organization, and

WHEREAS the City Council of the City of Watertown desires to appropriate \$5,000 from the FY 2010-11 Tourism Fund to support the Disabled Persons Action Organization, and

WHEREAS the Disabled Persons Action Organization will expend the funds to market and promote the City of Watertown through the public media, print, radio, television, direct contact and other promotional devices and that this will encourage tourism in the City of Watertown, and

WHEREAS the City of Watertown wishes to enter into an Agreement for Public Benefit Services between the City of Watertown and the Disabled Persons Action Organization, a copy of which is attached and made a part of this resolution,

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Watertown hereby approves a Public Benefit Services Agreement between the City of Watertown, New York and the Disabled Persons Action Organization, and

BE IT FURTHER RESOLVED that City Manager Mary Corriveau is hereby authorized and directed to execute the Agreement on behalf of the City Council.

SECONDED BY COUNCIL MEMBER JEFFREY M. SMITH AND CARRIED WITH ALL VOTING YEA EXCEPT COUNCIL MEMBER BUTLER ABSTAINING

Prior to the vote on the foregoing resolution, Council Member Macaluso stated that she never saw any request for this. She stated that it is vague and questioned if this was done every year.

Council Member Smith stated that he had requested it.

Council Member Macaluso responded that it seemed a little generous to her.

Council Member Smith advised that over 60% of the concert goers are from outside of the City, with many of them coming from Canada. He commented that we want the Canadian market and this is a pretty modest amount to obtain it.

Council Member Macaluso stated that she disagreed with that and asked where the information came from.

Council Member Smith responded that he phoned DPAO and asked them.

Mayor Graham explained that these public benefit agreements are a method for giving public funds to private entities.

Council Member Butler stated that he would not be voting on the resolution because of a personal conflict of interest.

Council Member Burns pointed out an error on the agreement which was in the agenda.

Mrs. Corriveau explained that I had been a typo and had been corrected.

Council Member Smith remarked that these funds come from bed tax monies and can be used for this.

Mayor Graham commented that the City of Watertown supplies an enormous amount of logistical coverage for these concerts.

INTRODUCED BY COUNCIL MEMBER JEFFREY M. SMITH

WHEREAS on June 7, 2010 the City Council passed a resolution adopting the Budget for Fiscal Year 2010-11, of which \$305,825 was appropriated for the Tourism Fund, and

WHEREAS on April 4, 2010 City Council approved a Public Benefit Services agreement with the Disabled Persons Action Organization in the amount of \$5,000 which was not appropriated for in the Fiscal Year 2010-11 budget,

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Watertown, New York that it hereby re-adopts the Tourism Fund Budget for Fiscal Year 2010-11 in the total amount of \$ 310,825 and

BE IT FURTHER RESOLVED by the City Council of the City of Watertown that the following adjustments be included in the re-adopted Tourism Fund Budget.

Revenues

Appropriated Fund Balance	<u>\$ 5,000</u>
Total	<u>\$ 5,000</u>

Expenditures

CT 6410.0430 Publicity	<u>\$ 5,000</u>
Total	<u>\$ 5,000</u>

**SECONDED BY COUNCIL MEMBER TERESA A. MACALUSO AND CARRIED
WITH ALL VOTING YEA EXCEPT COUNCIL MEMBER BUTLER ABSTAINING**

INTRODUCED BY COUNCIL MEMBER ROXANNE M. BURNS

WHEREAS the City of Watertown owns a certain lot of land known as Tax Parcel No. 13-23-102.1 located on Washington Street, and

WHEREAS the Samaritan Medical Center has expressed an interest in this property to help facilitate the development of a 168 bed skilled nursing facility along with 120 bed assisted living program on this site, and

WHEREAS Samaritan Medical Center has made an offer of \$54,150 to purchase said property,

NOW THEREFORE BE IT RESOLVED that pursuant to Section 23, Subdivision (b) of the General City Law, Section 247 of the Charter of the City of Watertown as amended by Local Law No. 1 of 1985, adopted December 3, 1984, effective January 17, 1985, and the Ordinance, Municipal Code, Chapter 16 adopted by the City Council on June 6, 1977 that the offer of

\$54,150 submitted by Samaritan Medical Center for the purchase Tax Parcel No. 13-23-102.1 is a fair and reasonable offer therefore and the same is hereby accepted, and

BE IT FURTHER RESOLVED that the deed issued by the City shall contain a provision that if the buyer does not combine the property sold with all other adjacent parcels owned by the buyer by filing a new deed in the County Clerk's office, the City shall have the right to seek reversion of the title to the City, and

BE IT FURTHER RESOLVED that the deed issued by the City shall retain an easement for a trail, to connect Washington Street at the intersection of Hudson Lane with the trail system on Watertown School District property, in a location and having a width that is mutually agreed to by the purchaser and the City Manager, and

BE IT FURTHER RESOLVED that the deed issued by the City shall contain easements for any existing water or sewer mains across the property, and

BE IT FURTHER RESOLVED that the Mayor, Jeffrey E. Graham, be and he hereby is authorized, empowered and directed to execute a Quit Claim Deed of said real property to Samaritan Medical Center. upon the receipt of the above mentioned sum of money in cash only by the City Comptroller.

SECONDED BY COUNCIL MEMBER TERESA R. MACALUSO AND CARRIED WITH ALL VOTING YEA

THE RESOLUTION "APPROVING THE SPECIAL USE PERMIT REQUEST SUBMITTED BY MICHAEL E. CUSACK, ESQ. ON BEHALF OF ST. LAWRENCE SEAWAY CELLULAR PARTNERSHIP D/B/A VERIZON WIRELESS TO ALLOW CONSTRUCTION OF A 104' MONOPOLE COMMUNICATIONS TOWER AND RELATED APPURTENANCES AT THE REAR OF 491 EASTERN BOULEVARD, PARCEL NO. 5-26-103.007 WAS PRESENTED TO COUNCIL (Introduced on March 21, 2011; public hearing held this evening; appears in its entirety on page 56 of the 2011 Minutes Book)

Prior to the vote on the foregoing resolution, Council Members reviewed the long form SEQRA and considered the items on the EAF addendum submitted by the applicant in reference to question #11, aesthetic resources.

Council Member Butler remarked that he needed time to look at the questions under the numbered questions. He remarked that this tower is near an apartment complex and can be viewed from there.

Mayor Graham responded that from a certain point, Council must rely on the public hearings and the planning board process to determine public sentiments.

Council Member Smith remarked that in terms of the issues listed below the main questions, they are only examples if Council determined that it was a negative impact.

Attorney Slye advised that if Council answers yes to a numbered question, then Council has to answer the examples and this is if the situation can't be mitigated. If this happens, then a full environmental impact statement would be required.

Mayor Graham remarked that the trip wire would be the majority of the Council determining if the impacts couldn't be mitigated.

Council Member Butler remarked that the visual impact is small to moderate.

Council Member Burns commented that part of this process is driven by the fact that we didn't hear anything from the public.

Council Member Butler stated that he had been contacted.

Mayor Graham remarked that if a Council Member doesn't call the others, how would they know about a complaint.

Council Member Butler reiterated his comments that the visual impact is small to moderate. He asked how much income the church was getting from this.

Attorney Cusack stated that while he is not sure, it is probably between \$800 -\$1000 per month. He also advised that Verizon is obligated to pay real estate taxes on the improvements.

Council Member Smith referred to page 3 of the appendix.

Attorney Cusack explained that the site has lots of natural tree cover on it. Verizon has agreed to paint the tower brown instead of silver as it will help reduce the visual impact. He advised that the tower is taller than the trees, but not too tall and is set a good distance from the boundary lines of the property. The boundary line is 346' from Eastern Blvd, 333' from Huntington Heights and 209' from the gym. He referred to the photographic simulations from four points in the City included in the report. He also remarked that the visual impact is mitigated to a great extent by existing buildings and vegetation.

Council Member Butler responded that he disagrees that it is in harmony with the neighborhood. He asked about the fence dimensions.

Attorney Cusack explained that the fence will be approximately 45' x 60' and the chain color will be green.

**AT THE CALL OF THE CHAIR VOTE WAS TAKEN ON THE FOREGOING
RESOLUTION AND CARRIED WITH ALL VOTING YEA EXCEPT COUNCIL
MEMBER BUTLER VOTING NAY**

INTRODUCED BY COUNCIL MEMBER TERESA R. MACALUSO

WHEREAS Michael E. Cusack, Esq., on behalf of St. Lawrence Seaway Cellular Partnership d/b/a Verizon Wireless has made an application for Site Plan Approval for the construction of a 104' Monopole Communications Tower and Related Appurtenances located at 491 Eastern Boulevard, Parcel No. 5-26-103.007, and

WHEREAS the Planning Board of the City of Watertown reviewed the Site Plan at its meeting held on March 1, 2011 and recommended that the City Council approve the Site Plan contingent upon the following:

The 12' wide driveway must be paved with asphalt for the portion of the driveway that is within the street right-of-way.

An asphalt pavement detail must be provided showing an asphalt section consisting of a minimum of 1" top course and 3" binder course.

The applicant must obtain a General City Permit for any digging in the City right-of-way.

Evergreen trees and shrubs shall be added along the south and east sides of the proposed chain link fence.

Deciduous trees shall be added along the entrance drive, in the existing stand of mature trees and in the lawn area to the south and east of the proposed facility.

The chain link fence shall be dark green or black vinyl coated fencing material.

The applicant shall paint the structure a brown color to blend in the with the surrounding area, and

WHEREAS the applicant submitted a Revised Site Plan to the Engineering Department on March 18, 2011 that meets most of the conditions recommended by the Planning Board except the following:

Deciduous trees shall be added along the entrance drive, in the existing stand of mature trees and in the lawn area to the south and east of the proposed facility, and

WHEREAS the County Planning Board reviewed the request on February 22, 2011 and adopted a motion stating that the project does not have any significant countywide or intermunicipal issues and is of local concern only, and

WHEREAS the City Council has reviewed the Environment Assessment Form, responding to each of the questions contained in Part II and has determined that the project is an Unlisted Action and will not have a significant effect on the environment,

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Watertown declares that the proposed construction and Site Plan constitutes a Type I Action for the purposes of SEQRA and hereby determines as the only involved agency and therefore the lead agency that the project will not have a significant effect on the environment, and

BE IT FURTHER RESOLVED by the City Council of the City of Watertown, New York, that Site Plan Approval is hereby granted to Michael E. Cusack, Esq., on behalf of St.

Lawrence Seaway Cellular Partnership d/b/a Verizon Wireless for the construction of a 104' Monopole Communications Tower and Related Appurtenances located at 491 Eastern Boulevard, Parcel No. 5-26-103.007 as shown on the revised Site Plan submitted to the City Engineer on March 18, 2011 with the remaining conditions listed above, and

BE IT FURTHER RESOLVED that it is an expressed condition of this Site Plan Approval that the applicant provide the City Engineer with a copy of any change in stamped plan forming the basis for this approval at the same time such plans are provided to the contractor. If plans are not provided as required by this condition of Site Plan Approval, the City Codes Enforcement Officer shall direct that work on the project site shall immediately cease until such time as the City Engineer is provided with the revised stamped plans. Additionally, any change in the approved plan, which in the opinion of the City Engineer would require amended Site Plan Approval, will result in immediate cessation of the affected portion of the project work until such time as the amended Site Plan is approved. The City Codes Enforcement Officer is requested to periodically review on-site plans to determine whether the City Engineer has been provided with plans as required by this approval.

SECONDED BY COUNCIL MEMBER JEFFREY M. SMITH AND CARRIED WITH ALL VOTING YEA EXCEPT COUNCIL MEMBER BUTLER VOTING NAY

THE RESOLUTION "APPROVING THE SPECIAL USE PERMIT REQUEST SUBMITTED BY RYAN G. CHURCHILL OF GYMO, P.C. ON BEHALF OF NORSTAR DEVELOPMENT USE L.P. TO ALLOW THE CONSTRUCTION OF 200 MULTIFAMILY RESIDENTIAL UNITS LOCATED AT 918 MILL STREET, PARCEL NOS. 3-14-101.100, 3-14-101.200, 3-14-105.100 AND 3-14-105.200 (Introduced on March 21, 2011; public hearing held this evening; appears in its entirety on page 57 of the 2011 Minutes Book)

Prior to the vote on the foregoing resolution, Council Member Butler remarked that he doesn't support this given the fact that they aren't paying taxes for 10 years.

AT THE CALL OF THE CHAIR VOTE WAS TAKEN ON THE FOREGOING RESOLUTION AND CARRIED WITH ALL VOTING YEA EXCEPT COUNCIL MEMBER BUTLER VOTING NAY

LOCAL LAW

MOTION WAS MADE BY COUNCIL MEMBER BUTLER TO TAKE FROM THE TABLE LOCAL LAW NO. 1 OF 2011. (Introduced on February 7, 2011; public hearing held March 7, 2011; tabled; appears in its entirety on page 44 of the 2011 Minutes Book).

MOTION WAS SECONDED BY COUNCIL MEMBER SMITH AND CARRIED WITH ALL VOTING IN FAVOR THEREOF.

MOTION WAS MADE BY COUNCIL MEMBER BUTLER TO AMEND THE LOCAL LAW TO CHANGE WORDING AS UNDERLINED: (APPEARS IN ITS ENTIRETY

**BELOW) MOTION WAS SECONDED BY COUNCIL MEMBER SMITH AND
CARRIED WITH ALL VOTING YEA ON THE AMENDMENT.
INTRODUCED BY COUNCIL MEMBER JOSEPH M. BUTLER, JR.**

WHEREAS the City of Watertown has substantial interest in protecting the peace and safety of its citizens and prohibiting unreasonable and unwelcome noise that may jeopardize it,

NOW THEREFORE BE IT ENACTED that § 205, Noise of the City Code of the City of Watertown is amended to add the following:

§205-8 Emergency Warning Devices

No person shall operate or cause to be operated any emergency warning device, except:

- (a) To give notice as a warning of any emergency;
- (b) On an authorized emergency vehicle when such vehicle is engaged in emergency operations provided that such device is not operated to create unnecessary noise or for a period of time longer than is necessary to respond to such emergency;
- (c) When such device is under test.

§205-9 Exhausts

Except as otherwise provided in this ordinance, no person shall cause or permit the discharge into the open air of the exhaust of any device, including but not limited to any steam engine, diesel engine, internal combustion engine or turbine engine, so as to create unnecessary noise.

§205-10. Sound Reproduction

No person shall operate, play or permit the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound.

- (a) In such a manner as to create ~~unreasonable unnecessary~~ noise plainly audible across a real property boundary, except for activities open to the public and for which a permit has been issued by the Chief of Police or his designee pursuant to rules and regulations promulgated, or by license issued by the City Manager.
- (b) In such a manner as to create ~~unreasonable unnecessary~~ noise that is plainly audible at fifty (50) feet from such device, when operated in or on a motor vehicle on a public highway.

(c) In such a manner as to create unreasonable ~~unnecessary~~ noise to any person other than the operator of the device, when operated by any passenger on a common carrier.

(d) In such a manner as to create unreasonable ~~unnecessary~~ noise that enters an apartment or dwelling unit that is separate and distinct from the apartment or dwelling unit from which the unreasonable ~~unnecessary~~ noise originated.

§205-11. Squealing Tires

No person shall operate a motor vehicle in such a manner as to cause unnecessary noise by spinning or squealing the tires of such motor vehicle.

, and

BE IT FURTHER ENACTED that § 205-6 is amended to read as follows:

§ 205-6 Penalties for Offenses

Any person, firm or corporation violating any provision of this chapter shall, upon conviction, be subject to a fine of not less than fifty (\$50) dollars nor more than two hundred and fifty (\$250) dollars. Each day of continued violation is a separate and distinct offense.

, and

BE IT FURTHER ENACTED that §205-1 is amended as follows:

§205-1 General Prohibition and Definitions

A. General Prohibition - The creation of any unreasonably loud, disturbing noise in the city is prohibited. Noise of such character, intensity or duration as to endanger public comfort, peace or repose or to be detrimental to the life or health of any individual is declared to be a nuisance and is prohibited. Noise of such character, intensity or duration is hereby declared to be a nuisance within the meaning of this section, but such designation shall not be deemed to be exclusive.

B. Definitions

Authorized Emergency Vehicle means every ambulance, police vehicle, fire vehicle and civil defense vehicle when on emergency calls.

Device means any mechanism which is intended to or which actually produces sound when operated or handled.

Emergency means a public calamity or an exposure of any person or property to imminent danger.

Emergency warning device means any sound signal device that is designed to be used and is actually used to warn of an emergency.

Person means any individual, partnership, company, corporation, association, firm, organization, government agency, administration or department, or any other group of individuals, or any person or employee thereof.

Real property boundary means an imaginary line exterior to any structure, along the ground surface, which separates the real property owned by one person from that owned by another person, and the vertical extension of such line.

Sound reproduction device means a device intended primarily for the production or reproduction of sound including, but not limited to any musical instrument, radio receiver, tape recorder, cd player, phonograph or sound amplification system.

Sound source site means any land under the ownership or control of a person in or upon which one or more sound sources are located. The sound source site includes all individual sound sources that are located on such site, whether stationary, movable or mobile.

Unreasonable ~~Unnecessary~~ noise means any excessive or unusually loud sound or any sound which either annoys, disturbs, injures, or endangers the comfort, repose, health, peace or safety of a reasonable person of normal sensibilities, or which causes injury to animal life or damage to property or business. Standards to be considered in determining whether unnecessary noise exists in a given situation include but are not limited to the following:

1. The intensity of the noise.
2. Whether the nature of the noise is usual or unusual.
3. Whether the origin of the noise is natural or unnatural.
4. The intensity of the background noise.
5. The proximity of the noise to sleeping facilities.
6. The nature and the zoning district of the area within which the noise emanates.
7. The time of day or night the noise occurs.
8. The duration of the noise.
9. Whether the sound source is temporary.
10. Whether the noise is continuous or intermittent.
11. Whether alternative methods are available to achieve the objectives of the sound producing activity.

, and

BE IT FURTHER ENACTED that this Local Law shall take effect immediately upon filing with the New York Secretary of State.

SECONDED BY COUNCIL MEMBER JEFFREY M. SMITH AND CARRIED WITH ALL VOTING YEA EXCEPT COUNCIL MEMBER BURNS AND MAYOR GRAHAM VOTING NAY.

Prior to the vote on the local law as amended, Mayor Graham commented that it was an unfortunate situation on Casey Street. He remarked that he does concur that there has to be a strengthening or change in the noise ordinance. However, he questioned the ability to enforce the local law.

Council Member Macaluso remarked that Council Member Butler has worked hard on this and we should try and see how this works. It can always be revisited.

Council Member Butler remarked that he respectfully disagrees with Attorney Slye. He stated that until there is a NYS court case that says it is unconstitutional, we need to be pro-active. He commented that, clearly, arguments can be made on both sides.

Council Member Burns concurred with Council Member Butler's concerns in regards to noise. She stated that it is a quality of life issue. However, she is on the fence as she still has concerns over enforceability. She stated that she doesn't want things on the books that can't be enforced. She also commented that she had hoped Council would get behind Attorney Slye's draft ordinance.

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COUNCIL DISCUSSED THE FOLLOWING TOPICS:

Boards and Commissions

Council Member Butler will contact the members of the Empire Zone Board about continuing to serve.

Council Members concurred that the present members of the Transportation Commission should be asked if they would like to continue to serve.

Volunteer Transportation Center

Mayor Graham referred to the \$1,600 line item budget request.

Council Member Macaluso stated that she would like the City to fund this in the upcoming budget.

Outstanding Balance for Watertown Wizards

Council Member Burns referred to this and asked what the amount was.

Mrs. Corriveau advised that the Wizards still owe \$16,200. It represents billings for multiple seasons: 2 bills for 08-09; 6 bills for 09-10; and 2 bills for 10-11. She remarked that she doesn't know why they weren't paid. However, she did talk with Mr. Simmons last week and told him that when the bills are paid in full, then negotiations can begin. She also advised that Mr. Simmons did make a payment last week and stated that he would have the balance paid within 10 days.

Council Member Smith asked if the amount due takes into consideration the last payment.

Mr. Mills explained that Mr. Simmons had made two payments in March – each for \$8,000.

Council Member Smith commented that in February, the bill would have been \$32,200 outstanding.

Mayor Graham asked who else owed money. He stated that it seems that one would have to pay invoices or the field couldn't be rented. And to run up a \$32,000 tab is not generally allowed. He said he has trouble with saying that to pay it now gets you back to square one.

Mrs. Corriveau mentioned that Sports Partners Watertown Revolution owes the City \$2750. A year ago, there was a request from Tom Shultz asking that the charges be reduced. Mrs. Corriveau told him that the City would charge the standard rates as in the City Code.

Mayor Graham asked if we didn't take people to collection and stated there should be a policy of payment within 30 days. He commented that a 9 year old can't run a tab for skate rentals.

Council Member Burns commented that if you don't pay your water bill, the service is turned off and if you don't pay your taxes, you lose your property.

Council Member Butler asked if it was an oversight.

Mrs. Corriveau responded that the bills were sent to Mr. Simmons at AAMCO Transmission. In October, he asked for a summary.

Mayor Graham stated that there should be a written policy that it is due within 30 days. However, really if you rent a field, you should pay up front.

Council Member Macaluso remarked that perhaps they should pay before the season starts.

Mrs. Corriveau advised that the hockey association pays ½ up front and then the other ½ in the middle of the season.

Mayor Graham remarked that the concession rights have a lot of financial potential. He also remarked that the City clears Mr. Schultz's parking lot and picks up broken glass every morning.

Council Member Burns stated that she is at the point where she thinks the City of Watertown shouldn't be standing in last place position to collect monies owed to them. She commented that the fair board has a building on City property and they have a Friday night cabaret event which makes money. She stated that we should run the City more like a business.

Mrs. Corriveau advised that the City has no agreement with the fair board. It is their building and they own it. However, the fair board and the Wizards work together for the concessions for DPAO concerts. Mrs. Corriveau and Mr. Mills will be working on a policy.

Attorney Slye suggested that they have to post an irrevocable letter of credit in the beginning of the season.

Council Member Smith asked how it worked with the Red & Black.

Mrs. Corriveau stated that they are invoiced the same as everyone else. She also advised that someone from Mr. Mill's office will be meeting with Parks and Recreation to come up with a better system.

Council Member Burns commented that we should set our own city-wide policy, not just for the recreation department.

Council Member Smith remarked that he had previously requested a report on the organizations at the fairgrounds listing how and what they pay.

Mrs. Corriveau explained that the report is being developed. However, the budget takes high priority right now.

Council Member Butler remarked that he wouldn't let the Wizards start the season unless the invoices were paid. He stated that he would have no problem with debating the time limit for future invoices to be paid at 30 or 90 days. He also commented that there were no checks and balances on the 10 % of the concession monies.

Mayor Graham advised that sales tax submissions should be available to the City if they are doing business at a City facility.

Council Member Burns thanked the City Manager and staff for their work and looks forward to the checks and balances being in place.

Gaffney Drive

Council Member Burns urged Council to reconsider the vote on the Gaffney Drive pump station in light of the good news of development in that area. She suggested that there be future debate on the topic.

Mayor Graham remarked that, in this case, we could use forward thinking.

Council Member Smith remarked that he has been in favor of doing something down there and this discussion should be put on for a work session soon.

Palmer Street

Mayor Graham remarked that Palmer Street continues to function as a defacto City street. It is in bad condition and at some point we have to do something for safety issues.

Council Member Smith commented that it is the same as Fay's Plaza.

CAPC

Mayor Graham suggested that if Council is going to be talking about food banks at CAPC, we should also talk about the Urban Mission since they distribute more food.

New Residents

Mayor Graham welcomed the 318 new residents of Watertown, based on the latest census. He asked about municipalities that dispute the numbers.

Mr. Mix advised that the County has questioned their numbers in the past. However, he wouldn't know what basis we would use to dispute the number.

Emerald Ash Bore

Mrs. Corriveau advised that we do have an inventory of all ash trees in the City and are doing a physical inspection of all of the trees. During May and June, a plan to deal with the issue will be developed.

EXECUTIVE SESSION

MOTION WAS MADE BY COUNCIL MEMBER BURNS TO MOVE INTO EXECUTIVE SESSION TO DISCUSS THE EMPLOYMENT HISTORY OF PARTICULAR INDIVIDUALS AND COLLECTIVE BARGAINING.

MOTION WAS SECONDED BY COUNCIL MEMBER SMITH AND CARRIED WITH ALL VOTING IN FAVOR THERE.

Council moved into executive session at 9:45 p.m.

Council reconvened at 10:55p.m.

ADJOURNMENT

**AT THE CALL OF THE CHAIR MEETING WAS DULY ADJOURNED AT 10:55 P.M.
BY MOTION OF COUNCIL MEMBER BURNS, SECONDED BY COUNCIL MEMBER
SMITH AND CARRIED WITH ALL VOTING IN FAVOR THEREOF.**

Donna M. Dutton
City Clerk